

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA**

TAYLOR G. MAPLES,

Plaintiff,

v.

MARTIN B. SANCHEZ
AND FLASH FRIDAY DEPENDABLE
CARRIERS

Defendants.

Case No. CIV-22-358-R

JURY TRIAL DEMANDED

NOTICE OF REMOVAL AND JURY DEMAND

Please take notice that pursuant to 28 U.S.C. §§ 1332, 1441, and 1446, Defendants Martin B. Sanchez and Flash Friday Dependable Carriers (hereinafter “Defendants”), appearing by and through their undersigned counsel of record, hereby remove the above captioned action to this Court from the District Court of Oklahoma County, Oklahoma, previously assigned case number CJ-2021.5282. In further support of this removal, Defendants state as follows:

1. Plaintiff filed her Petition in the District Court of Oklahoma County, Oklahoma on December 9, 2021. The District Court of Oklahoma County, Oklahoma is located in the United States District Court of the Western District of Oklahoma.

2. Plaintiff alleges that she served Defendant Martin B. Sanchez via certified mail. There is no date listed on the certified mail receipt and the signature contained on the certified mail receipt is not the signature of Defendant Sanchez.

3. Defendant Flash Friday Dependable Carriers has not been served.

4. Given the concerns regarding service, counsel for Defendants agreed to accept service on behalf of both Defendants on April 22, 2022 with the express agreement that responsive pleadings could be filed within ten (10) days of the date service was accepted.

Accordingly, this notice of removal is timely because it has been filed within thirty (30) days of the date that Defendants were served with process.

5. Any civil action filed in a state court over which a federal district court would have original jurisdiction may be removed. 28 U.S.C §1441(a). Plaintiff has alleged personal injuries and past and future damages related to an automobile accident involving a tractor-trailer and a pick-up truck that allegedly transpired on or about October 7, 2020. (Exhibit 1, Plaintiff's Petition, ¶ 1). Plaintiff has alleged claims for compensatory and punitive damages.

6. This case is removable to federal court because this Court has original subject matter jurisdiction on diversity grounds pursuant to 28 U.S.C. § 1332(a)(1) and (2) because complete diversity of citizenship exists between the parties and the amount in controversy is in excess of the federal court's jurisdictional requirements. Accordingly, Defendant removes this entire action to the United States District Court for the Western District of Oklahoma pursuant to 28 U.S.C. §§ 1441 and 1446.

7. Plaintiff's Petition is silent with respect to the Plaintiff's domicile. According to the police report for the accident at issue, Plaintiff is a resident of the State of Oklahoma

8. Defendant Martin B. Sanchez is a resident of the State of California. Defendant Flash Friday Dependable Carriers is not an entity. Defendant Martin B. Sanchez is a sole proprietor doing business as Flash Friday Dependable Carriers. Therefore, Flash Friday Dependable Carriers is not an entity and is not capable of being a separately named defendant in this action.

9. There is complete diversity in this case as Defendant Sanchez is a resident of the State of California.

10. Plaintiff's Petition alleges that her damages exceed \$75,000 (Exhibit 1, Plaintiff's Petition). Plaintiff's Petition is silent with respect to the total damages being claimed.

11. Defense counsel Alex DeMasi has conferred with Plaintiff's counsel prior to removal. Specifically, defense counsel Alex DeMasi emailed Plaintiff's counsel Rilee Harrison and Monty Cain on April 29, 2022 and offered Plaintiff an opportunity to proceed in State Court if she would stipulate that the total amount of all damages she would ever seek to collect against Defendant was less than \$75,000. On May 2, 2022, Mr. Cain emailed Mr. DeMasi and indicated that Plaintiff was not agreeable to limit recovery to \$75,000.

12. Given the allegations of injury contained in Plaintiff's Petition; the kinds of damages that Plaintiff has alleged, and Plaintiff's inability to stipulate at this time that the damages Plaintiff may seek to recover against Defendants are less than \$75,000, the amount in controversy in this case is in excess of \$75,000.00 and thereby satisfies the jurisdictional requirement contained in 28 U.S.C. 1332(a).

13. Defendant has demonstrated that the amount in controversy exceeds the jurisdictional threshold of \$75,000 by a preponderance of the evidence available to Defendant at the time of removal. See *McPhail v. Deere & Co*, 529 F.3d 947, 956 (10th Cir. 2008).

14. Pursuant to 28 U.S.C. § 1446(a), copies of all process, pleadings, and orders served upon Defendant or contained within the court file and available to Defendants at the time of this removal are attached as Exhibit 2 (excluding Plaintiff's Petition which is marked as Exhibit 1). The remaining materials beyond the Petition include the Oklahoma State Court Network Docket Sheet (Exhibit 3), Plaintiff's Counsel's Entry of Appearance (Exhibit 4), Summons with purported service return for Defendant Sanchez filed on February 25, 2022 (Exhibit 5), Summons returned unserved on Defendant Flash Friday filed on April 8, 2022

(Exhibit 6), Summons returned unserved on Defendant Flash Friday dated April 12, 2022 (Exhibit 7), and Defendants' Uncontested Motion for Extension of Time to File Answer (Exhibit 8).

15. Pursuant to the provisions of 28 U.S.C. § 1441(a), the United States District Court for the Western District of Oklahoma is the federal district court for the district embracing the place where the state court suit is pending.

16. Written notice of the filing of this Notice of Removal has been served on Plaintiff's counsel and a copy has been filed with the Clerk of Oklahoma County, Oklahoma District Court. A copy of this notice is marked as Exhibit 9.

DEMAND FOR JURY TRIAL

Defendants Martin B. Sanchez and Flash Friday Dependable Carriers hereby demand a trial by jury on all issues pending in this case for which they have a right to have decided by a jury.

Respectfully submitted,

MATTEUZZI & BROOKER, P.C.

/s/ Michael D. Matteuzzi

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ATTORNEYS FOR DEFENDANTS

CERTIFICATE OF SERVICE

The undersigned certifies that a true and correct copy of the foregoing was sent by electronic mail on this 2nd day of May, 2022 to:

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/s/ Michael D. Matteuzzi

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